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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/544,127

03/03/2006

Bodo W Lambertz

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EXAMINER

HOEY, ALISSA L

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

08/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/544,127	Applicant(s) LAMBERTZ, BODO W	
	Examiner Alissa L. Hoey	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-15, 17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-15, 17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/30/08 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-15, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lambertz (US 6,286,151).

In regard to claim 1, Lambertz teaches a sock (1), especially for use in sports activities, characterized in that the sole presents a rounded stepping area (see figure 1). Further, Lambertz teaches the rounded stepping area being constructed and arranged in the shape of an arch, said arch being directed outwardly (figure 1, identifier 11: column 2, lines 58-67, fabric padding inherently has an arch-shaped profile, such that the sides of the pad where connected to the sock would have less of a outwardly

directed height, than the middle of the padding portion, and as shown in corrected figure 1). Further, Lambertz teaches the rounded stepping area capable of supporting the rolling motion of the foot during walking or running. The Rounded stepping area is located on the bottom of the sock, such that the front pad of the foot is elevated from the instep portion to prevent a pronated rolling motion of the instep of the foot during walking or running.

In regard to claim 4, Lambertz teaches a sock according to Claim 1, characterized in that at least one climate channel (lower portion of 3) is provided in the stepping area (figure 1).

In regard to claim 5, Lambertz teaches a sock according to Claim 4, characterized in that the air channels (upper portion of 3) are provided on the inner side of the leg and/or on the outer side of the leg of the sock (figure 1).

In regard to claim 6, Lambertz teaches a sock according to Claim 5, characterized in that the air channels are connected with at least one climate channel in the stepping area (see figures (see figure 1).

In regard to claim 7, Lambertz teaches a sock according to Claim 6, characterized in that the climate channels (3) in the stepping area present an arc-shaped pattern (see arc of identifier 3 in figure 1).

In regard to claim 8, Lambertz teaches a sock according to Claim 7, characterized in that the climate channels (3) present partial narrowings (see figure 1).

In regard to claim 9, Lambertz teaches a sock according to Claim 8, characterized in that the climate channels (3) present a substantially circular cross

section.

In regard to claim 10, Lambertz teaches a Sock according to Claim 9, characterized in that the climate channels (3) are interconnected by a central channel (see figure 8, identifiers 12 and 13).

In regard to claim 11, Lambertz teaches a sock according to Claim 10, characterized in that air channels (25) and the climate channels (26) are made of the same material.

In regard to claim 12, Lambertz teaches a sock according to Claim 11, characterized in that the air channel (3) consists of a climate regulating cross knitted fabric (column 1, lines 26-33).

In regard to claim 13, Lambertz teaches a sock according to Claim 12, characterized in that the climate channel (3) consists of a climate regulating cross knitted fabric (column 3, lines 32-45).

In regard to claim 14, Lambertz teaches a sock according to Claim 13, characterized in that sock is fitted with an X-Cross bandage (figure 1, identifier 9).

In regard to claim 15, Lambertz teaches a sock according to Claim 14, characterized in that the sock presents pads (10, 11, 6, 7 and 5).

In regard to claim 17, Lambertz teaches a sock according to Claim 2, characterized in that the air channels (3) are provided on the inner side of the leg and/or on the outer side of the leg of the sock.

In regard to claim 19, Lambertz teaches a sock according to Claim 4, characterized in that at least one climate channel (3) is provided in the stepping area

(figures 1 and 8).

In regard to claim 20, Lambertz teaches a sock according to Claim 19, characterized in that the air channels (3) are connected with at least one climate channel in the stepping area (figures 1 and 8).

Response to Arguments

4. Applicant's arguments filed 11/19/07 have been fully considered but they are not persuasive.

I) Applicant argues that Lambertz (US 6,286,151) fails to teach a stepping area which supports the rolling motion of the foot during walking or running.

Examiner notes that the Lambertz teaches the rounded stepping area that would provide support to the rolling motion of the foot during walking or running. The Rounded stepping area is located on the bottom of the sock and lies across the front foot pad, such that the front pad of the foot is elevated more so than that of the toes portion of the sock. This would provide support to the instep portion of the foot due to stabilization of the toes and assist in preventing a pronating, rolling motion of the instep during walking or running. The elevation of the front foot pad would provide the toes a better elongation and therefore stabilization of the foot in contacting the ground, which would assist in stabilization of a pronating motion of the instep of the foot.

II) Applicant argues that Lambertz does not teach that the rounded stepping area is constructed and arranged in the shape of an arch, which is directed outward.

The Examiner disagrees, since Lambertz shows in corrected figure 1, indenters 10 and/or 11 a padded cushion that has an outward projecting arc (see figure 1).

III) Applicant argues that Lambertz's invention and Applicant's are different in shape.

Examiner notes that Lambertz teaches the limitations of the claims as claimed, any differences in the shape of Lambertz and that of Applicants invention are not detailed in the claims.

Conclusion

5. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH

/Alissa L. Hoey/
Primary Examiner, Art Unit 3765

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